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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/626,325	07/26/2000	JOHN S. YATES JR.	114596-28-0053BS	7939

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EXAMINER
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ELLIS, RICHARD L

ART UNIT	PAPER NUMBER
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2183

DATE MAILED: 04/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/626,325

Applicant(s)

YATES ET AL.

Examiner

Richard Ellis

Art Unit

2183

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 14 April 2005 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 6 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.  
Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☐ For purposes of appeal, the proposed amendment(s): a) ☐ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: \_\_\_\_\_.  
Claim(s) rejected: \_\_\_\_\_.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing of good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See attached sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08 or PTO-1449) Paper No(s). \_\_\_\_\_.  
13. ☐ Other: \_\_\_\_\_.



**RICHARD L. ELLIS  
PRIMARY EXAMINER**

Attachment to advisory action.

1. Applicant expends 6 pages of the after final submission arguing the definition of "thread". Applicant's arguments are not persuasive. Applicant is reminded of the following quotation, which was previously cited to applicant as part of paragraph 8.1 of the prior office action, paper number 20041019:

"Absent an express definition in their specification, the fact that appellants can point to definitions or usages that conform to their interpretation does not make the PTO's definition unreasonable when the PTO can point to other sources that support its interpretation." In re Morris, 44 USPQ2d 1023, 1029 (Fed. Cir. 1997).

Additionally, applicant's arguments focus solely upon one of the two cited dictionary definitions of thread, to the complete and absolute exclusion of the second cited dictionary. Accordingly, applicant is reminded of the definition of thread as presented by the Microsoft Corporation in the Microsoft Press Computer Dictionary, second edition, published in 1994 and also cited to applicant in the last office action, paper number 20041019:

**thread** In programming a process that is part of a larger process or program.

**process** As a noun, a program or part of a program; a coherent sequence of steps undertaken by a program -- for example, an internal or external data-transfer operation, handling of an interrupt, or evaluation of a function.

Accordingly, as seen from the definition provided by the Microsoft Corporation, an entity that clearly is representative of the "interpretation that those skilled in the art would reach", a thread is a process, and a process is a part of a program that performs a sequence of steps, e.g., handling of an interrupt.

Next, looking to the Hammond et al. reference, we have as detailed in the rejection of the claims presented to applicant in the two prior office actions, paper numbers 8 and 20041019, it is seen that there are "handlers" (400a-i). From Microsoft we find that a "thread" is part of a "larger process" and a "process" is a part of a program which is for "handling of an interrupt". Therefore, because a "thread" is for "handling of an interrupt" and because Hammond et al. "handlers" are for "handling of an interrupt", the "handler" of Hammond et al. is exactly equivalent to a "thread" according to "the interpretation that those

skilled in the art would reach".

2. Applicant additionally cites several portions of the specification in his argument that the claimed term "thread" is somehow different from the handler of Hammond et al. However, the cited portions of the specification simply use the term thread, but fail to explicitly and deliberately provide a definition of thread. Accordingly, applicant can not rely upon those portions of the specification to provide any additional support to his incorrect and improper assertion that the claimed term "thread" is somehow different from the handler of Hammond et al.

3. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Richard Ellis whose telephone number is (571) 272-4165. The Examiner can normally be reached on Monday through Thursday from 7am to 5pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Eddie Chan, can be reached on (571) 272-4162. The fax phone number for the USPTO is: (703)872-9306.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-2100.

Richard Ellis  
April 19, 2005



**RICHARD L. ELLIS**  
**PRIMARY EXAMINER**